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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,769	07/01/2003	Dimitri Peter Zafiroglu	SWZ-007	2175

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EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/611,769	Applicant(s) ZAFIROGLU, DIMITRI PETER	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 56-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 and 56-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment dated 6/23/2006 has been fully considered and entered into the Record. Claims 1-34 and 56-68 are currently pending with new claims 60-68. Amended claims 1, 26 and 56-59 contain no new matter. The previously applied prior art rejections have been withdrawn as they failed to teach an adhesive layer that partially penetrates into the fibrous layer.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 21, 23, 26, 27, 60-62 and 65-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US 4,588,629).

Taylor teaches an embossed fabric comprising a thermoplastic binding layer **10** and a layer of fibers **11** (Abstract). The fiber layer may be dropped or blown in the form of a continuous film or patterned layer by any suitable technique (col. 6, lines 30-45) onto the tacky adhesive layer **10**. This would allow for the fibers to be parallel to the adhesive layer. The adhesive layer may be continuous or discontinuous (col. 5, lines 39-44). As shown in Figure 2 the fibrous face layer has a plurality of legs extending from the fibrous face layer. With fibers anchored in the adhesive layer the adhesive layer necessarily penetrates into the fibrous face layer. Claim 2 is rejected as the fibers may have a length of one millimeter (col. 4, lines 10-15), which once standing up provides the instantly claimed thickness. Claim 21 is rejected as the composite fabric may have a backing layer (col. 4, lines 39-44). Claim 23 is rejected as the applied invention is an embossed fabric (col. 1, lines 23-32). Claim 26 is rejected as the applied invention meets the structural limitations of the instant claim because the bottoms of the fibers that are embedded in the

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adhesive layer consist of only the fiber's legs. Claim 27 is rejected as layer 21 may serve as a backing layer (Figure 2). Claims 60-62 and 66-68 are rejected as the adhesive layer penetrates into the fibrous layer through the application of heat and pressure (col. 2, lines 30-35).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 4, 24, 25, 32 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) as applied to claims 1 and 26 above, and further in view of Gillette et al. (US 2003/0232170). The invention of Taylor was is silent as to the use of spunlaced fabrics as a facing layer and the creation of loops upstanding from the adhesive layer.

a. Gillette et al. teach a spunlaced fabric that may be embossed with a decorative pattern and bonded to a backing layer (Figure 1). The backing layer may be a film of thermoplastic and the two layers may be bonded via thermal lamination [0024 and 25]. The fibrous outer layer may have loops upstanding from the adhesive layer (claim 1). The fibers of the spunlaced fabric may have a denier ranging from 0.5-19 [0017]. The spunlaced fabric may have a basis weight of greater than 19 g/m² (claim 39).

b. Since Taylor and Gillette et al. are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Gillette et al. would have been recognized in the pertinent art of Taylor.

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- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Taylor with the densities, embossed patterns, and fabrics of Gillette et al. The skilled artisan would have been motivated by the creation of an aesthetically pleasing article as disclosed by Gillette et al. [0007].
 - d. Claims 56 and 57 are rejected as it would have been obvious to one of ordinary skill in the art at the time the invention was made the combined invention with the central portions removed from the composite motivated by the desire to create a more aesthetically pleasing article.
4. Claims 19, 20 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) as applied to claim 1 above, and further in view of Makansi (US 5,882,770). The disclosure of Taylor is silent as to the use of knit, woven or stitch-bonded fabrics as a facing layer.
- a. Makansi teaches a fibrous sheet with its outer surface embossed with a pattern of fine grooves (Abstract). The outer fibrous sheet may be woven, stitch-bonded or knit (col. 3, lines 10-14).
 - b. Since Taylor and Makansi are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Makansi would have been recognized in the pertinent art of Taylor.
 - c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Taylor fabrics of Makansi. The skilled artisan would have been motivated by the creation of an article that produces rainbow and/or hologram images on exposure to light (Abstract).

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5. Claims 1, 4, 5, 16-18, 21, 22, 26-29, 31, 56 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533).

a. Ladeur et al. teach a floor covering comprising a base fabric 1 (fibrous face layer) and pile fibers 2 that make up a face layer with a plurality of legs dependent said face layer (Abstract and Figures). The base or ground fabric 1 may be a nonwoven fabric (col. 1, last paragraph). The bottom surface of the pile fibers that extend from the base fabric 2 have legs that increase the surface area in contact with the adhesive layer 3 (col. 5, second paragraph). The top surface of the plurality of fibers comprises downwardly facing fiber loops with free fiber ends that extend into the adhesive layer. The disclosure of Ladeur does not specifically state that the adhesive layer penetrates the fibrous face layer, however the adhesive layer at least partially penetrates the fibrous face layer 1 because the nonwoven layer is needled into the back layers 6 and 7, which allows for the fibers to be at a depth below the adhesive layer 3. Claim 27 is rejected as layer 6 is a backing layer. The applied reference teaches the use of pile-forming yarns and as such the Examiner takes the position that this teaching encompasses reverse-pile fabrics.

b. The disclosure of Ladeur is silent as to the depth that the adhesive layer penetrates into the fibrous face layer. The depth of the adhesive penetration is a result-effective variable effecting structural integrity of the fabric face layer. Consequently, absent a clear and convincing showing of unexpected results demonstrating the criticality of the adhesive depth, it would have been obvious to one of ordinary skill in the art to optimize this result-effective variable by routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977).

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6. Claims 6, 7, 19, 20 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533) as applied to claim 1 above, and further in view of Sissons (US 3,347,736). The disclosure of Ladeur is silent as to the use of woven fabric in the face layer and needling density.

a. Sissons teaches a reinforced needled pile fabric with a reinforcing woven fabric within the pile layer (col. 3, lines 35-44). Example 5 uses fibers with a denier of 3.

Example 1 uses a needling density of 600 punches per square inch.

b. Since Ladeur and Sisson are from the same field of endeavor (i.e. floor coverings), the purpose disclosed by Sisson. would have been recognized in the pertinent art of Ladeur.

c. It would have been obvious to one ordinary skill in the art at the time the invention was made to have replaced the nonwoven layer of Ladeur with the woven layer of Sissons motivated by imparting the pile fabric with strength and dimensionally stability (col. 3, lines 35-44, Sissons).

d. The needling density of punches per square inch is a result-effective variables feel and appearance of the carpeting fabric. Consequently, absent a clear and convincing showing of unexpected results demonstrating the criticality of the claimed needling density, it would have been obvious to one of ordinary skill in the art to optimize this result-effective variable by routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977).

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7. Claims 33, 34 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533) as applied to claim 26 above, and further in view of Murata et al. (US 4,576,840). The disclosure of Ladeur is silent as to the use of woven or knitted pile fabrics.

a. Murata et al. teach a pile fiber composition comprising shrinkable pile fibers in the creation of a woven or knitted pile fabric.

b. Since Ladeur and Murata et al. are from the same field of endeavor (i.e. fabrics comprising pile fibers), the purpose disclosed by Murata et al. would have been recognized in the pertinent art of Ladeur.

c. It would have obvious at the time the invention was made to a person having ordinary skill in the art to modify the article Ladeur with a woven or knitted carpet of shrinkable fibers motivated by the use of conventional techniques within carpet making with the desire to create an article with outstanding appearance and feel (Murata et al. Abstract).

8. Claims 8, 12 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533) as applied to claim 1 above, and further in view of Zafiroglu et al. (US 6,269,759). The disclosure of Ladeur is silent as to the stitch-bonded and bulked fabrics in the fibrous outer layer.

a. Zafiroglu et al. teach the creation of pile fiber carpet using stitch-bonded and bulked fabrics with a loop frequency of 12 per inch (Example 1). The stitches may be arranged to create various patterns or surface effects (col. 13, lines 1-5). The illustrated loops of Figure 5c read on the “gathered fabric” limitations as they appear to be structurally similar.

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- b. Since Ladeur and Zafiroglu et al. are from the same field of endeavor (i.e. pile carpet), the purpose disclosed by Zafiroglu et al. would have been recognized in the pertinent art of Ladeur.
 - c. It would have obvious at the time the invention was made to a person having ordinary skill in the art to modify the article Ladeur with the fabrics of Zafiroglu et al. motivated by the creation of an aesthetically pleasing article.
- 9. Claims 9-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533) in view of Zafiroglu et al. (US 6,269,759) as applied to claims 8 and 12 above, and further in view of view of Murata et al. (US 4,576,840). The disclosure of Ladeur is silent as to the use of shrinkable pile fabrics.
 - a. Murata et al. teach a pile fiber composition comprising shrinkable pile fibers in the creation of a woven or knitted pile fabric.
 - b. Since Ladeur and Murata et al. are from the same field of endeavor (i.e. fabrics comprising pile fibers), the purpose disclosed by Murata et al. would have been recognized in the pertinent art of Ladeur.
 - c. It would have obvious at the time the invention was made to a person having ordinary skill in the art to modify the article Ladeur with a woven or knitted carpet of shrinkable fibers motivated by the use of conventional techniques within carpet making with the desire to create an article with outstanding appearance and feel (Murata et al. Abstract).
- 10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ladeur (EP 0 547 533) as applied to claim 29 above, and further in view of Allison et al. (US 2003/0099810). The

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disclosure of Ladeur is silent as to the use of a spunlaced fabric for the fabric layer, through which the fabric is needed.

- a. Allison et al. teach the creation of carpeting for vehicles that comprises a primary layer **12** that may be a spunlaced fabric [0024].
- b. Since Ladeur and Allison et al. are from the same field of endeavor (i.e. carpets), the purpose disclosed by Allison et al. would have been recognized in the pertinent art of Ladeur.
- c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have made the article of Ladeur with a the spunlaced fabric layer of Allison et al. The skilled artisan would have been motivated by the desire to create an article with added stability provided by the spunlaced fabric.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

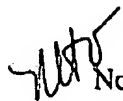
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423.

The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mdm 


Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

9/15/06